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To: 'microsoft.atr(a)usdoj.gov'
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Subject: Microsoft Settlement

Note: All views expressed herein are my own and not necessarily representative of Adecco or Boeing. This email was written on my own time and not billed to Boeing.

After reviewing the settlement, I am absolutely flabbergasted at how little is being done to rectify the current situation. The suit found unanimously that Microsoft is and does operate as a monopoly. What is being done to break up the monopoly? Nothing! While there are some minor restrictions placed on Microsoft, those restrictions are of little or no consequence or, worse, empower Microsoft to be even more ruthless than it has in the past. How many more software companies must die before we act? We would have been better off without this suit, at least Microsoft had the fear of the DOJ potentially affecting its operations. Now Microsoft will know it is untouchable.

It appears that the only winner in the Microsoft antitrust case is Microsoft, who, quite ironically, is the defendant. Microsoft emerges as a clear winner:

- * Microsoft can now terminate its agreement to ship Windows to any OEM after just sending the OEM two letters for allegedly violating Microsoft agreements. The OEM will have no recourse. Allegations may be real or fabricated as the OEM has no recourse (section III - A).

- * Microsoft can still offer predatory pricing on the base OS to promote Microsoft products (Section III - B, bullet 3). The fact that Microsoft has to offer the same predatory pricing offer to all OEMs is a tragic comedy. What good is predatory pricing unless offered to all major channels?

- * Microsoft can delay access to the Windows API until after the last beta (section III - D). It is a simple matter to have the last beta end right before release, thus disallowing any competition.

- * The very idea that Microsoft cannot alter OEM configuration for 14 days and can then thereafter nag the user to death until they agree to switch back to Microsoft products is at best a cruel trick to users (section III - H, bullet 3). Additionally, the add/remove seems only to apply to removing the icons in major menus, as opposed to actually removing the Microsoft software (section III - H, bullet 1).

- * The Technical Committee (section IV - B) does not appear to allow for any real enforcement (in my opinion). Additionally, what are they going to enforce, the broad new anti-competitive powers given to Microsoft?

- * While I am not a legal whiz, it seems that the whole document does not preclude Microsoft from bundling whatever it wants into the base operating system (as it did with Internet Explorer to the detriment of other browsers).

Why in the world is this monopoly not being broken up into multiple companies (2 at the least)? Why are the Microsoft anti-competitive practices being sanctioned and not prohibited? Why is the settlement for a such a short time (five years), or is that just to limit all the new anti-competitive powers bequethed to Microsoft?

The big losers in this case are the user (lack of choice), the US software industry (lack of innovation, fear of Microsoft reprisals) and the DOJ (by delivering the weakest judgement conceivable which weakens confidence in the DOJ).

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